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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/409,242	09/30/1999	RAHUL R. VAID	61582-00001USPT	5090

7590

12/03/2002

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EXAMINER

MORGAN, ROBERT W

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/409,242

Applicant(s)

VAID, RAHUL R.

Examiner

Robert W. Morgan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on September 23, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 34-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

1. In the amendment filed 9/23/02 in paper number 10, the following has occurred: Claim 34 has been amended. Now claims 1-16 and 34-49 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-11, 14-16, 34-38, 41 and 44-49 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 5,897,620 to Walker et al., for substantially the same reasons set forth in the previous Office Action (paper number 6). Further reasons appear below.

(A) Claims 1-11, 14-16, 35-38, 41 and 44-49 have not been amended, and are rejected for the same reasons given in the previous Office Action (paper number 6), and incorporated herein. Further reasons appear hereinbelow.

(B) The amendment to claim 34 appears to have been made to merely added the word “geographic”, but otherwise does not affect the scope and breath of the claim as originally presented and/or in the manner in which the claim was interpreted by the Examiner when applying prior art within the previous Office Action.

As such, the recited claimed features of claim 34 are rejected for the same reasons given in the prior Office Action (paper number 6), and incorporated herein.

Claim Rejections - 35 USC § 103

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12-13 and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,897,620 to Walker et al. in view of U.S. Patent No 5,953,705 to Oneda, for the same reasons set forth in the previous Office Action (paper number 6). Further reasons appear below.

(A) Claims 12-13 and 39-40 have not been amended, and are rejected for the same reasons given in the previous Office Action (paper number 6), and incorporated herein. Further reasons appear hereinbelow.

Response to Arguments

6. Applicant's arguments filed 9/23/02 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 9/23/02.

(A) In the remarks, Applicants argue in substance that, (1) Walker et al. does not teach or suggest a ticket having an unspecified geographic parameter; (2) Walker et al. does not teach or suggest storing ticket options having an unspecified geographic flight parameter; and (3) Oneda does not teach or suggest a pre-paid airline ticket having an unspecified geographic flight parameter.

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(B) In response to Applicant's argument that, (1) Walker does not teach or suggest a ticket having an unspecified geographic parameter. The Examiner respectfully submits that Walker et al. teaches a unspecified-time ticket that includes receiving identification of flight information such as destination location and departure times, special fares and also receiving information regarding booking a ticket at the special fare (see: column 3, lines 1-11). In another embodiment, Walker et al. teaches that the flexibilities of the unspecified-time traveler need not be limited to a departure time, but may include the airline, the departing airport, the destination airport, or any other restriction that increases the flexibility afforded the airline in placing the traveler aboard a flight (see: column 3, lines 39-45). This preferred embodiment suggests that an unspecified geographic parameter such as departing airport and destination airport are not necessary to purchase a pre-paid airline ticket.

In light of above, the Examiner respectfully submits that it is sufficient to demonstrate that the prior art meets the limitations as claimed, whether by a single instance or scenario, or in every possible preferred embodiment, since it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

Thus, the fact situations provided by the Examiner, no matter how infrequent or occasional they may be, are indeed embodiments that Applicant is expected to have considered. As such, since Applicant fails to expressly recite limitations that provide a patentable distinction over such fact situations, it is respectfully submitted that prior art either reads on or makes obvious Applicant's claimed limitations.

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(C) In response to Applicant's argument that, (2) Walker does not teach or suggest storing ticket options having an unspecified geographic flight parameter. The reference of Walker et al. teaches a data storage device (225, Fig. 2) that includes various databases such as the forecasted demand analysis database (230, Fig. 2), a flight schedule database (240, Fig. 2), a seat allocation database (245, Fig. 2), a pricing and restriction database (250, Fig. 2) and a reservation database (255, Fig. 2). In addition, Walker et al. teaches another embodiment where the flexibilities of the unspecified-time traveler need not be limited to a departure time, but may include the airline, the departing airport, the destination airport, or any other restriction that increases the flexibility afforded the airline in place the traveler aboard a flight (see: column 3, lines 39-45). This clearly indicates that various databases are used to store a number of unspecified geographic flight parameter.

As described above, the Examiner respectfully submits it is sufficient to demonstrate that the prior art meets the limitations as claimed, whether by a single instance or scenario, or in every possible preferred embodiment, since it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

Thus, the fact situations provided by the Examiner, no matter how infrequent or occasional they may be, are indeed embodiments that Applicant is expected to have considered. As such, since Applicant fails to expressly recite limitations that provide a patentable distinction over such fact situations, it is respectfully submitted that prior art either reads on or makes obvious Applicant's claimed limitations.

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(D) In response to Applicant's argument that, (3) Oneda does not teach or suggest a pre-paid airline ticket having an unspecified geographic flight parameter. The Examiner respectfully submits that the Walker et al. reference, and not Oneda, *per se*, that was relied upon for the specific teaching of a unspecified-time ticket that includes receiving identification of flight information such as destination location and departure times, special fares and also receiving information regarding booking a ticket at the special fare (see: column 3, lines 1-11). Walker et al. further teaches in another preferred embodiment that the flexibilities of the unspecified-time traveler need not be limited to a departure time, but may include the airline, the departing airport, the destination airport, or any other restriction that increases the flexibility afforded the airline in place the traveler aboard a flight (see: column 3, lines 39-45). Oneda was relied on for primarily teaching an airplane ticket system using IC cards (38, Fig. 2C) that is wallet sized with a magnetic stripe (300, Fig. 2B) and a ten-key portion (308, Fig. 2B) for inputting a personal identification code (see: column 7, lines 66 to column 8, lines 19). Thus, the proper combination of the applied references would be the incorporation of Oneda's airplane ticket IC cards with a magnetic stripe within unspecified-time airline ticket of Walker et al.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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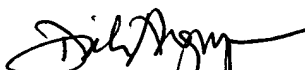
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (703) 605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

RWM
rwm
November 20, 2002


DINH X. NGUYEN
PRIMARY EXAMINER